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NO. 10 (2010)

Supreme Court, U.S.
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In The Supreme Court of the United States

ESTHER CHOW,
Petitioner,

Vs.

APPELLATE COURT OF CALIFORNIA,
SECOND APPELLATE DIVISION, et al.

Respondents,

On Petition For Writ Of Certiorari
To The Appellate Court of California,
Second Appellate Division, et al.
Respondents,

ON PETITION FOR WRIT OF CERTIORARI

Esther Chow
745 E. Valley Blvd., #517
San Gabriel, CA 91776
626 241 2105

1. **QUESTIONS PRESENTED FOR REVIEW**

Whether the doctrine of RES JUDICATA TACIT EX ALBO NIGREM, EX NIGRO ALBUM, EX CURVO RECTUM AND EX RECTO CURVUM, apply to FRANK CARLEO ("CARLEO"), the original plaintiff, his complaint against her husband, Dr. Chow, case No. ALH.02S01320, dated 11/13/02, APPENDIX ("APP") B-1, when he later sued Petitioner, based on his perjured and sham trespass, case 03C01168 on 7/28/03?

2. Whether California Code of Civil Procedure ("CCP") § 391 et al, enacted since 1963, is an EX POST FACTO LAW, because the law has NO STATUTE OF LIMITATIONS or CORPUS DILECTI, while the punishment is the " DEATH KNELL SENTENCE UNTILL DEATH DOETH US PART, " once the in propria persona litigant is branded as VEXATIOUS DEFENDANT OR PLAINTIFF ?

3. Whether all respondents/judges are PRIVATE ATTORNEYS ("PA") for CARLEO and BONNIE WU ("Wu"), when ALL, in UNISON, amended the complaint with automatic increase of damages from limited UP TO UNLIMITED SUMS WITHOUT EVER AMENDING OR RECLASSIFYING CARLEO's sham damages from $ 25,000 into MORE THAN $50,000 since the outset of the sham trespass, WITHOUT ABIDING by CCP § 472, even AFTER CHOW answered and cross-complained on 10/21/03?

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A. Because California demands that all in propria persona litigants must be represented by attorneys, against numerous cases in the Federal and State Court, violated 28 U.S.C. §1654, violated the First, Fourth, Fifth, Seventh, Thirteenth, and Fourteenth Amendments to the United States Constitution?
i. California Code of Civil Procedure ("CCP") § 391 et al Denies the right to plead and conduct their own cases personally.....

ii. Petitioner Made An Adequate Showing that CARLEO Is A Grifter, Extortionist and Plain Old Thief, Under the Ruse of his SHAM TRESPASS, Originated as a Civil Action, Which Ipso Factoly Transforms Into GRAND THEFT LARCENY, FIVE YEARS LATE.

iii. CARLEO's Trespass Started With Limited Jurisdiction, Without Reclassification and Amended By Osmosis, Became UNLIMITED and NON-COMPLIANCE With CCP § 472, DAMAGES, At Trial Only, After Chow filed her Answer on 10/21/03.

4i. ALL RESPONDENTS ACTED As CARLEO's Private Attorneys ("PA").

5i. CALIFORNIA SUPREME COURTRespondents APPLIED QUID PRO QUO, Because P.J. ROGER BOREN and P.J. RONALD GEORGE, Were Closely Related to each Other, Since The Trial, in 1984 THE HILLSIDE STRANGLER, CASE NO. A354231. P.J. GEORGE was the Judge and P.J. Boren was the Prosecuting Attorney. P.J. GEORGE Appointed P.J. BOREN to His Present Position Since 2004.
RESPONDENTS-JUDGES VIOLATED/COMMITTED WOBBLER- offense in favor of Carleo, prohibited by *PEOPLE vs. McPike*, 182 C.A. 4th 426(Feb.2010) because Carleo double-dipped against Chow.

6i P.J. PATTI McKAY Abused Her Discretion When She Struck CHOW's Timely AOB("Appellant's Opening Brief') On 12/18/08, Because P.J. Was Waiting patiently For the Trial Court's Order For Chow to Post Undertaking Against Her Will and Case Law, Infra. APP. F-1 Versus APP.E-4 The Unconstitutional Stricken AOB IS SHOWN on APP . F-4 To F-16 (Emphasis Added). She Also Denied ALL RECORDS Which Were Augmented and Delivered to her by CHOW. The Crucial Facts Were Only Lodged In Another "UNUSED CASE FILE BV 027695 and BV 026123", Instead of BV 027694, THE ORIGINAL APPEAL Case, NOT USED FOR the Oral Hearing on 10/15/2009.

7i. P.J.Boren and Other Respondents UNCONSTITUTIONALLY Demanded that CHOW MUST FILE APP. H-1 and H-2, Based on a very stale ORDER WITHOUT CARLEO's Name, Anywhere Dated 11/28/1994.

8i. EX POST FACTO LAW, CCP §391 et. al, Violates U.S. Constitution Article 1 §9.3; § 10.1 and Article IV § 1, Supported By Cases, Infra.

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V. BASIS FOR JURISDICTION OF THIS COURT

A. Date of Orders to be Reviewed
On 1/28/2010, the California Supreme Court refused to review CHOW's plea to resque her from the death knell sentence caused by CARLEO who is the grifter, extortionist and plain old thief as fully defined, infra. This was caused because all respondents refused to follow the recent stare decisis issued by this Court in *CITIZENS UNITED v. FEDERAL ELECTION COMMISSION*, 558 U.S. –2010.
The California Supreme Court denied petitioner a writ of review on ALL ISSUES.

B. JURISDICTIONAL BASIS FOR REVIEW
Under the provisions of 28 U.S.C. § 1257, this Court has complete jurisdiction to review the final orders of a lower State court when certiorari is denied by the State's Court of last resort.

VI. CONSTITUTIONAL PROVISIONS, STATUTES AND RULES

This Petition involves ISSUES OF FIRST IMPRESSION, Because CCP § 391 et al, has everlasting, eternal and unlimited statute of limitation, against numerous U.S. Constitutions as will be fully argued, infra, including California Penal Codes

VII. STATEMENT OF THE CASE

California indicted Petioner with GRAND THEFT LARCENY under the sham civil trespass on 12/5/07. CHOW was sentenced to "death",

based on WU's perjuries using instincts, FIVE YEARS LATER, without ANY HELP asked from the percipients police officers at the crime scene when "CHOW RAN AWAY," APP.C-5(emphasis added), with NOTHING.

This is the element of larceny. The false records were shredded by CARLEO, APP.C-4, confessed again by him, the second time: ON 8/12/02, APP. C-2. after WU and him falsified that CHOW 'stole DU's papers on 7/28/02', when later on 12/2/09, APP.B-5, he settled by paying DU more that $20,000 This violated the similar issues as in *People v. McPike*, 182 C.A. 4th 426, 436. (Wobbler Offense).

All this occurred after the miserable trial on 12/5/07, TWO YEARS LATER in Pasadena Courthouse.

Because the punishment enhanced from plain sham trespass, into GRAND THEFT LARCENY, automatically CHOW shall claim EX POST FACTO LAW, as will be fully argued, infra.

Case law prohibited CARLEO and the respondents, et al, to command CHOW to post bond and using a lawyer, who had been BAMBOOZLED TO DEATH at trial and on 10/15/09, while waiting for her post $20,000, APP.E-4, later to strike her timely and constitutional AOB, dated 12/18/08.

CHOW's AOB argued ALL ISSUES which were completely stricken, UNCONSTITUTIONALLY by respondents. CHOW has proven that ALL Respondents acted as CARLEO and WU's

"PA"s during trial and in the appellate courts, without authority.

Petitioner took the stand and denied ALL charges of "carrying away, running and grabbing anything" when CARLEO already shredded his non-existing Old chattels in 2002 and again in 2004. APP.C-3 and C-4.

The trial judge was the ONE-MAN GRAND JUROR by amending and reclassifying the limited damages into unlimited injuries suffered by CHOW, who was dragged under the bus of injustice, THOUSAND TIMES OVER.
Petitioner's trial counsel, which she NEVER NEEDED pursuant to 28 U.S.C. § 1654, supported by cases, infra, filed the timely appeal which respondents knowingly messed up the records into other NON-IMPORTANT FILES such as BV 026123 and BV 027695.
BUT FOR the missing reporter not present during the oral hearing, APP. G, inclusive, should be rejected and stricken from the record.

VIII. STATEMENT OF MATERIAL FACTS

At trial, dated 12/4/07 and 12/5/07, the material facts were totally ignored by the trial Judge MILTON, i.e. he refused to apply records, handwritten and typed by CARLEO and WU, to dismiss his res judicata complaint. APP.C and D inclusive, which confessed that CHOW ran away, TONG STOLE EVERYTHING. Yet, the trial judge refused, and affirmed by ALL RESPON-

DENTS that it was CHOW 'who stole all of WU and CARLEO's chattels.' Yet, NONE of them begged the percipient witnesses/police officers to drag her back, and return ALL 'chattels' which are in their heads only.

IX. ARGUMENTS AS TO THE NECESSITY OF REVIEW

A. CALIFORNIA PRACTICED EX POST FACTO LAW, CCP § 391 et al SINCE 1963, TO THE PRESENT.

§ 391 consists of subparts:

(a) "Litigation" means any civil action.
(b) 'vexatious litigant" means a person who does the following:
(1) IN the immediate preceding 7 year period, commenced. .in propria persona at least 5 litigations...
(2) After a litigation has been finallly determined.. in propria persona..against the same defendant(s)..
(3) IN any lititgation while acting in propria persona.
(4) (d) .. acting in propria persona.

The elements above, violated 28 U.S.C. § 1654: " In all courts of the United States the parties MAY PLEAD and conduct their own cases personally.."
The command prohibiting in propria persona litigants, violated the stare decisis:
1. CONLEY v. GIBSON, 355 U.S.41 (1957) and
2. HAINES v. KERNER, 404 U.S. 519 (per curium), 1972).

ERGO, CCP § 391 et al, contradicted the cases and statute § 1654 and must be removed from the lawbook.

Furthermore, because APP. A had NO STATUTE OF LIMITATIONS or corpus dilecti, § 391 et al is similar to CPC § 190, which states "(a) Every person guilty of murder shall be punished by death, imprisonment in the state prison for life without the possibility of parole. . as provided in §§ 190.1-190.5. CPC § 799 states that Prosecution for an offense punishable by death..may be commenced at any time."

B. CCP § 391 et al, CAN BE PROSECUTED MORE than 7 years with even ONE lawsuit, as applied to APP.A against CHOW. The original date was 11/28/1994. CARLEO was NOT involved with APP.A, yet, respondents applied to CHOW vehemently, which is against *U.S. v. LILLIE*, 989 F2d 1054, 1056 (9th Cir. 1993):

" IT IS THE CLIENT/DEFENDANT's COMFORT, NOT THE JUDGE's that the sixth Amendment protects."

Again, CCP § 391 et al is very dangerous to be enfored without limitation. ERGO, the law shall also be stricken, unless revised by this Court.

NO RESPONDENT SHALL OR CAN WAIVE CHOW'S CONSTITUTIONAL RIGHTS.

C. EX POST FACTO LAW, CCP § 391 et al,

was illegally applied to CHOW, in secret, against the definition by Black's Law Dictionary as
" A law which regulates civil rights but convict the offender, or the deprivation of a right."

D. CARLEO is also an extortionist defined by Black's Law Dictionary as "A person who accuses anyone of a criminal offense."

Black's Law Dictionary, 5th Ed pages 520 and 525, respectively.

By losing against PAIVA also, CARLEO in fact is a pathological liar, APP. D-5, grifter and extortionist since at least 2000.

The definition of "grifter" is " A person who obtains money or property illicitly by adroit use of a scam, confidence game, or other fraudulent means."

Black's Law Dictionary 9th Ed. Page 771 (2009).
The definition of a thief is " A person who steals."
To steal means
"Taking of another's money..
by surreptitious manner,"
WEBSTER'S New World Dictionary 2ED. Pages 1477 and 1393 (1979).
Fortunately, both definitions applied to CARLEO and WU.

Because the limited res judicata complaint is MORE than $50,000, it is certainly a GRAND THEFT LARCENY against CHOW. CPC § 487 (a)
Respondents solely based CHOW's purported guilt on CCP § 391 et al, and the conviction in the name of sham and perjured trespass, APP . D inclusive, pursuant to CPC §§ 187, 486, 489, 799 and 801, the conviction in the name of sham and perjured trespass, APP. D inclusive, 801. The conviction against CHOW is EX POST FACTO LAW being enhanced from civil trespass into the crime of LARCENY missing INTENT TO STEAL as cases, infra, against U.S. CONSTITUTION ARTICLE 1 § 9.3 AND §10.1.
See also *Anderson v. Sheppard* (1988) 856 F2d at 745. CHOW IS SENTENCED TO DEATH A THOUSAND TIMES OVER, without a shred of facts, or DNA testing.

CARLEO's SHAM TRESPASS IS NOW RES JUDICATA, when All Respondents applied APP.A.
CARLEO's second complaint against CHOW, which should have been filed together with her husband since 11/13/02, APP. B-1 and B-2, and requested by CHOW to be enforced now because the fat lady DID NOT SING HER LAST CHORUS YET, ANYTIME.
Since 1860, the court in *PETER v. HEWITT*, 63 U.S. 345, 348-49, held that "The repose of society, and the quiet of families, require that what has been definitely determined by competent tribunals, SHALL BE ACCEPTED as IRREFRAGABLE LEGAL TRUTH. So deeply is this principle implanted

in her jurisprudence, that commentators upon it have said, "the res judicata renders white that which is black, and STRAIGHT THAT WHICH IS CROOKED, or *FACIT EXCURVO RECTUM, EX ALBO NIGRUM.*"

On 11/13/02, APP.B-1 was known by WU and CARLEO, including the time he lied to the trial judge about being forced to 'reconstruct his lies about PAUL DU's records, yet, paid him more then $20,000, or DU WILL TAKE HIM TO TRIAL FOR MORE THAN $25,000. Nobody stopped him from suing CHOW with her husband, which definition stated as
" An issue that had been definitely settled by judicial decision.."
An affirmative defense barring.. a second lawsuit..or series of transactions and that could have been—but NOT RAISED IN THE FIRST SUIT (emphases added). Black's Law Dictionary, 9th Ed. Page 1425 (2009).
This Honorable Court should strike the second complaint 03C01168, forthwith, without any doubt, to declare "IRREFRAGABLE LEGAL TRUTH."
ALL RESPONDENTS, ACTING IN UNISON since 12/4/07, all the way to this time, violated cases which prohibit ANY ILLEGAL demand for undertaking, are supported by,

1. *MAHDAVI v. Sup. Ct.* 166 CA4th 32, at 40B, when the 4th C.A. ordered reversal of the appeal because CCP § 391 (b) (2) protects MAHDAVI, as a defendant.
2. *CHILDS v. PAINE WEBBER INC.*, 29 CA 4th, 982, 994-995, stated that "Absent a final determination

of the State or Federal, litigation against plaintiff, the Superior Court COULD NOT PROPERLY DETERMINE HER TO BE VEXATIOUS litigant pursuant to CCP § 391 (b) (2), when the Court of Appeal in San Diego, reversed the dismissal against *CHILDS*.

Appellate Division Respondents violated CHOW's numerous constitutional rights.
Respondents condoned and approved CARLEO's extortion, lies, perjuries and outright theft, based upon more lies on INSTINCTS, FIVE YEARS LATE from the date of trespass.
Webster's New 20th Century, unabridged, 2d ED (1983), page 951, defined as
"BENT, KNACK, RUSH., ID at page 173 also.

CARLEO and WU completely refuse to ask ANY percipient police officers to recall or drag CHOW to return WHAT "SHE STOLE" on 7/28/02. IT NEVER HAPPENED contradicting the following cases:

1. *PEOPLE v. TWIGGS,* 223 CA2d 455, 459, (2d CA 1976), held that "Percipients police officer as a witness sufficed the conviction for grand theft larceny, INTENT MUST BE PRESENT."

2. *PEOPLE v. DAVIS*, 19 Cal. 4th 301, 305 (1998), where both P. J George and A.J. CHIN concurred that DAVIS had intent to commit larceny by grand theft (stealing shirts owned by Mervyn store, seen by an agent / security store camera. ID at page 301.

Sexual discrimination was the only evidence by ALL RESPONDENTS against CHOW, as supported by numerous U.S. Constitution:

1. FIRST AMENDMENT: FREEDOM OF SPEECH TO FILE REDRESS.
2. FOURTH AMENDMENT: FREEDOM TO BE PROTECTED FROM UNREASONABLE SEARCH, UNLESS A LEGAL SEARCH WARRANT EXISTS;
3. FIFTH AMENDMENT: NO PERSON SHALL BE HELD TO ANSWER FOR THE CRIME OF GRAND THEFT LARCENY, UNLESS A GRAND JURY INDICTS CHOW;
4. SIXTH AMENDMENT: ALTHOUGH IT STARTED AS CIVIL TRESPASS, THE ENHANCED PUNISHMENT WAS AN INFAMOUS CRIME OF THEFT, WITHOUT A JURY, SINCE 12/5/07 - - APP. E-1 and E-2, delayed since 7/28/03 to PRESENT; CARLEO WILL REOPEN LATER!
5. EIGHT AMENDMENT: EXCESSIVE FINE IMPOSED ON CHOW, FROM LIMITED TO UNLIMITED WITHOUT COMPLIANCE WITH CCP § 472, TO UNENDING AND UNCONSTITUTIONAL SUM OF $50,000, from $25,000, NOW;
6. THIRTEENTH AMENDMENT: NO SLAVERY, YET IMPOSED BY ALL RESPONDENT – JUDGES ON CHOW SINCE 11/7/2007, by judge MILTON, ALL THE WAY UP TO THIS DATE, WITHOUT ACCOUNTABILITY;
7. FOURTEENTH AMENDMENT: CHOW, A U.S. CITIZEN, ABUSED BY ALL RESPONDENT TO BE SERIOUSLY DEPRIVED HER LIFE, LIBERTY AND PROPERTY, WITHOUT HONEST DUE PROCESS AND EQUAL PROTECTION OF ALL LAWS.

8. ARTICLE 1§9.3 and § 10:
NO STATE SHALL PASS ANY EX POST FACTO LAWS WHICH CERTAINLY WAS IMPOSED ON CHOW SINCE 7/28/03 UNTIL PRESENT. See APP. A

Further evidence of UNEQUAL PROTECTION OF ALL LAWS, in particular the California Penal Codes, also had been illegally imposed on CHOW, as follows:
1. CPC § 489: GRAND THEFT
Since 12/5/2007, CHOW was FALSELY ACCUSED OF GRAND THEFT, by ALL RESPONDENTS, BECAUSE THE PHONY DAMAGES IS MORE THAN $400 WITHOUT A SHRED OF FACTS EXCEPT LIES BY WU and CARLEO, CONTRARY TO THE TRUTH ORIGINALLY FOUND BY THE HONEST JUDGE LAVIN, APP.D, inclusive.
2. CPC § 489: GRAND THEFT PUNISHMENT
GRAND THEFT is punishable as follows: (b) IN ALL OTHER CASE, BY IMPRISONMENT IN A COUNTY JAIL NOT EXCEEDING ONE YEAR OR IN THE STATE PRISON.
3. CPC § 190: PUNISHMENT FOR "MURDER" APP. A is a lifetime sentence without a CORPUS DILECTI AND NO STATUTE OF LIMITATION LIKE § 799: PUNISHMENT BY DEATH OR LIFETIME IMPRISONMENT, COMMENCED AT ANY TIME.

Because APP. A is imposed on CHOW since 11/28/1994, still applied and enforced NOW, it is a lifetime sentence under the disguise of CARLEO's
SHAM TRESPASS, from LIMITED TO UNLIMITED FINES, BY ALL JUDGES-

Respondents who are definitely CARLEO's PRIVATE ATTORNEYS, prohibited by
COOK v. U.S., 18 F2d 50, 52 (1927) which held that
" A trial judge is NOT MERELY a MODERATOR OR UMPIRE; NEITHER IS HE AN ADVOCATE. COOK's conviction was overturned by the 8th Circuit.

4. THE COURTS BELOW ALSO SUPPORT CHOW's CASE FOR THIS COURT TO GRANT THE WRIT:
1. *TALLEY v. CALIFORNIA*, 362 U.S. 60, 62: Appellate Dept. of L.A. Sup. Ct., 1960 ordinance held invalid and the conviction to distribute leaflets, violated TALLEY's First and 14th U.S. CONSTITUTION. The U.S. Supreme Court granted certiorari because CALIFORNIA SUPREME COURT REFUSED TO consider this contention, 360 U.S. 928;
2. *COHEN v. CALIFORNIA*, 403 U.S. 15, 17 (2d CA, 1971) refused to review the conviction of COHEN who was wearing a jacket in Div. 20 courthouse, with "FUCK THE DRAFT WITHOUT MORE", is offensive to the First and 14th U.S. Constitution of COHEN, and reversed his conviction by the High Court. 1 Cal. App. 3d 94
3. *MEYER v. NEBRASKA*, 262 U.S. 390, 399(1922), when the U.S. Supreme Court declared that "NO STATE SHALL..DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW."..Without doubt, the term denotes not merely freedom from bodily restraint but also the right of the individual..

to engage in any of the common occupations of life, to acquire useful knowledge to marry..to worship GOD according to the dictates of his own conscience and generally enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men.."

BECAUSE THIS COURT SPEAKS, EVERYBODY LISTENS!

First, CARLEO sued Dr. CHOW; he lost; next, he sued PAIVA, an attorney; he lost; then he sued DU as unlimited case; he lost when he paid him more than $20,000 on APP. B-5, charging CHOW to reconstruct DU's records which CARLEO shredded, APP. C-4 top part and APP. C-6, sued TONG, he lost and also paid him. If CHOW in fact 'stole DU's records, why did CARLEO pay DU in 2009, when he knew that CHOW was involved with his chattels, at trial, dated 12/5/07? *People v. McPIKE* this is wobbler Offense. 182 C.A. 4th at 436.
This honorable Court is begged to grant this crucial writ, otherwise, THERE WILL BE NO END IN SIGHT.

All respondents refused to protect CHOW's constitutional rights, because of QUID PRO QUO, prohibited by *CITIZENS UNITED v. FEDERAL ELECTION COMMISSION*, 558 U.S. ---2010:
"GOVERNMENT PROHIBITION OF EXPENDITURES BY CORPORATIONS, VIOLATES FIRST AMENDMENT RIGHT TO FREE SPEECH."

There is further substantial evidence that respondents failed to protect Chow in Federal cases to protect, falsely accused Chow, the purported litigant based on perjured testimonies at trial:
MOY v. USA et al, 906 F2d 467, 470 (9th Cir. 1990), that Court held that

"An injunction cannot issue merely upon a showing of litigiousness. The plaintiff's claims must NOT only be numerous, but also patently without merit., citing *IN RE OLIVER*, (3d CIRC. 1982), 682 F2d 443, 446.

1. *MOY*, the Court cautioned the U.S.A. not to "Hang the sword of DAMOCLES over his head and hopes for federal access for foreseeable future", like respondents did against CHOW herein.
See *TRIPATI v. BEAMAN* (per curium), 878 F2d 351, 352 (10th Cir. 1989).

Case at bar, there was ONLY one cross-complaint against the original plaintiff on 10/21/03, NOTHING ELSE. Yet, APPA had been forever stayed since 1994, which is more than 7 years and ONLY 1 case, instead of 5 litigation which CARLEO started.

2. *U.S. v. McCARTHY*, 301 F2d 796, where the 3d Circuit held the trial Court advantagiously found the written statement made by agents, who destroyed them, SHOULD be allowed to be used by the defense, and the conviction was ordered reversed.

However, case at bar, there are NOW 10 large volumes of records, only in the trial court, 6 volumes in the appellate division, all accumulated by CARLEO, and responded by CHOW, with still missing RALPH LYU's appeal, which CARLEO first called him to settle, yet, it is still in limbo.

CARLEO, who knew that TONG stole ALL his sham records, APP.C-2 to C-6, yet, abusing this Elderly defendant of really committing GRAND THEFT LARCENY when he also settled with TONG in Pasadena Superior Court recently.

The conviction of *OFFUTT v. U.S.* 348 U.S. 11: "The judge's treatment of the appellant, cannot stand".

ID at page 13.

Daniel Webster's Writings and Speeches, Volume 5, page 163, "THE JUDICIARY CLEARLY STATED THAT IN A GOVERNMENT LIKE OURS ENTIRELY POPULAR, CARE SHOULD BE TAKEN IN EVERY PART OF THE SYSTEM, NOT ONLY TO DO RIGHT, BUT TO STATISFY THE COMMUNITY THAT RIGHT IS DONE." (1903).

CARLEO started the mess and he shall clean his mess up against this Elderly litigant, who was only defending herself and her husband, when he SHOULD SUE Ms. CHOW also in 11/13/02, APP. B-1.

The Fat Lady did not sing her last song yet, ergo, this court should declare his second case as RES JUDICATA, as fully argued, supra, NOW.

The court in *SEVERINI v. SUTTER-BUTTE CANAL* Co. 59 CA 154, 156 (3d CA, 1922) found

That "If by his negligence or willfulness he allows the damages to be unnecessarily enhanced, the increased

damages/loss that which was avoidable by the performance of his duty, FALLS UPON HIM." 1 Sutherland on Damages, 4th Ed. § 88.

The Last CALIFORNIA Court, failed and refused to protect CHOW, irrespective to his close-knitted relationship with P.J. BOREN. *CITIZENS UNITED*, supra DEMANDS that P.J. BOREN and A.J. Chin, en banc, should also protect CHOW, as demanded by

TALLEY v. CALIFORNIA and *COHEN v. CALIFORNIA*, supra.
APP. I, inclusive.

Respondents, in unison, FAILED to be true, fair and kind to ALL PARTIES. It was not done and ergo, CHOW's sufferings should be awarded with ALL EXPENSES expended since 10/21/03, with 10% interests against CARLEO for seriously abusing her, instead of protecting her Constitutional and Civil rights, based on 28 U.S.C. § 13928 (1) (a) (9) (A).
ALTHOUGH THIS CASE HAS NO AMICUS CURIAE BRIEFS or MILLION DOLLARS INVOLVED, CCP § 391 et al, HAD BEEN UNLAWFULLY APPLIED AND FORCED DOWN CHOW and her attorney which she did NOT NEED, their throats, MUST RECEIVE COMPENSATIONS from CARLEO who is a cheat, liar (APP.D INCLUSIVE), extortionist and plain old thief, based on the definitions, supra.
All state courts have responsibility to protect all in PROPRIA PERSONA litigants who had been falsely accused by CARLEO or others, in the past and future.

Petitioner ESTHER CHOW begs this Honorable Court to declare as follows:

1. That case 03C01168 is a continuation of abuse by CARLEO who is protected by all respondents-Judges, without compliance with all U.S. Constitutions, to be null and void due to the doctrine of RES JUDICATA, forthwith;

2. That CCP § 391 et al, is vague, overbroad, although it had litigations within 7 years, meant to be everlasting and eternal, like APP. A, still enforced after 7 years, and only one cross-complaint against CARLEO. Once the vexatitous litigant / in PROPRIA PERSONA is branded by any false accuser like WU and CARLEO, that brand goes with her even-after death-doeth us part; APP.A compared with APP.G, inclusive.

3. Equal protection rights and freedom of speech is forever and ever violated because it has NO CORPUS DILECTI and/or STATUTE OF LIMITATIONS, APP.H-1 and H-2 (emphasis added).

4. DOUBLE JEOPARDY rights are forever claimed, without a shred of truth. APP.G inclusive.

5. Security requirements were impermissibly excessive fines which are not demanded by case precedent *MAHDAVI v. SUP.* CT. 166 C.A. 4TH 32, 40B, informed by CHOW to P.J. BOREN, APP.H-1 and H-2, in a timely manner on 11/30/09. P.J. McCAY and her associates prohibited CHOW's

legal free expression of speech as finally determined by *CITIZENS UNITED v. FEDERAL ELECTION COMMISSION*, 558 U.S.—2010.

6. Supremacy Clause of the Constitution was deeply embroiled and involved.

7. That ALL respondents, in particular the ALHAMBRA TRIAL COURT, must release CHOW's undertaking, forthwith, with 10% interests paid by CARLEO who is an extortionist, grifter and plain old thief. APP. E-4. To apply *PACMUTINS. v. HASLIP*, the Supreme Court case law for punitive damages be respectfully applied to case because the abuse of Elderly by CARLEO since 12/17/2002, APP. B-1, is prejudicial

8. BUT FOR TONG ordering LYU to open CARLEO's office, yet, the trial court abused his discretion by dismissing both males, leaving untouched the injuries caused by CARLEO, with impunity. APP.D. and E inclusive.

THE FOLLOWING DOCTRINES APPLIES HEREIN

1. *RES JUDICATA FACIT EX ALBO NIGRUM, EX NIGRO ALBUM, EX CURVO RECTUM, and EX RECTO CURVUM*,",

When anything has been adjudicated, it makes white black, black white, curved straight and straight curved..

2. *JUSTICIA NON EST NEGANDA NON DIFFERENDA, JUSTICE IS NEITHER TO BE DENIED NOR DELAYED.*

3. *FIAT JUSTITIA, RUAT COELUM, LET RIGHT BE DONE, THOUGH THE HEAVENS FALL.*

4. *BONI JUDICIS EST AMPLIARE*, IT IS THE DUTY OF A GOOD JUDGE TO MAKE PRECEDENCE WHICH AMPLIFY JUSTICE.
5. *IGNORANTIA JURIS QUOD QUISQUE TENETURE SCIRE NEMINEM EXCUSAT*, IGNORANCE OF LAW (BY CARLEO & WU), WHICH EVERYONE IS BOUND TO KNOW, EXCUSES NO ONE!

CHOW's comfort not that of respondent judges below, is protected by the 6th U.S. CONSTITUTION, *U.S. v. LILLIE*, 989 F2d 1054, 1056 (9th Cir. 1993).

SUMMARY OF ARGUMENTS

[Rule 24 (1) (h)]

1. CHOW is sent to the death chambers by a THOUSAND TIMES OVER, without a "DNA testing."
CARLEO and the respondents DID NOT have any substantial evidence that APP.A showed or referred to CARLEO or WU, both liars, APP.D-5. Case NO. ALH 02S01320 shall involved ESTHER CHOW also, since 11/13/2002.
2. CARLEO should have but did not add her in that case, ergo, RES JUDICATA APPLIED in case at bar. THE BLIND FAT LADY DID NOT SING HER LAST SONG YET!.
3. ALL RESPONDENTS ACTED IN UNISON TO DESTROY CHOW's FREEDOM OF SPEECH AND OTHER CONSTITUTIONAL RIGHTS, BOTH CIVIL AND CRIMINAL, BECAUSE HER "DEATH KNELL" SENTENCE IS A GRAND THEFT LARCENY, WITHOUT A DOUBT.

CONCLUSION

This High Court had spoken in *CITIZENS UNITED, PETER, HAINES, PACIFIC MUT. LIFE INS. CO*, supported by *CHILDS, MAHDAVI* and *PEOPLE v. McPIKE*, supra, that CCP 391, is clearly an EX POST FACTO LAW, prohibited by U.S. CONST. ART. 1 9.10 and 10.1 which was forced on Petitioner , THOUSAND TIMES OVER.

The Constitutionality cannot be upheld since it penalized ALL IN PROPRIA PERSONA litigants branded with vexatiousness, till death doeth us part with no statute of limitation, corpus dilecti or DNA test.

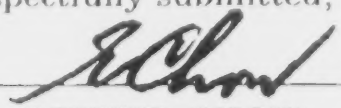
The question here is, whether Respondents are Constitutionally empowered to enact EX POST FACTO laws on CHOW since 11/28/1994 (APP.A), to now, with impunity, under the ruse of sham trespass, which should be res judicata, supported by ALL APPENDIXES, supra, including other Californians!

CCP § 391 violates numerous U.S. Constitutions. The rational basis for review is the proper standard.

ACCORDINGLY, this High Court should reverse ALL judgments below and dismiss this RES JUDICATA case 03C01168 with instructions to dissolve CARLEO's sham grand theft larceny against CHOW, AWARD ALL damages suffered by her since 10/28/03 to now; to return the undertaking (APP. E-4)
with 10% interest, and ALL monies expended for his egregious abuse pursuant to 28 U.S.C. § 13928, which were condoned by ALL RESPONDENTS.

GOD BLESS THIS COURT !

Respectfully submitted,



ESTHER CHOW Dated May 26, 2010

COURT OF APPEAL OF THE STATE OF CALIFORNIA FOR THE SECOND APPELLATE DISTRICT, DIVISION 5

KHOE, JOSEPH
CHOW, ESTHER,
Plaintiffs / Appellant v.
FIRST INTERSTATE BANK OF CALIFORNIA
Defendant-Respondent

CASE NO. B082247
NOA / PET DATE: 02/22/1994
CAUSE: Appeal
CASE TYPE: Civil
DISPO DATE: 11/28/1994
FINAL DISP: Affirmed in Full
ORIGIN: Superior
CATERGORY: Civil Complaint-other

ATTORNEY- PARTY
In propria persona
JOSEPH KHOE, ESTHER CHOW
3100 Del Mar Ave, Rosemead-CA 91770
For Plaintiffs/Appellants
CONNIE K. TURNER
633. W. 5th Str, Los Angeles-CA 90071
For Defendant and Respondent
FIRST INTERSTATE BANK OF CALIFORNIA

CASE DISPOSITION: Affirmed in full
DATE: 11/28/1994
STATUS: FINAL
AUTHORIZING JUSTICES:
Justice 1: ARMSTRONG, ORVILLE A. (concur)
Justice 2: TURNER, PAUL (concur)
Justice 3: GRIGNON, MARGARET (Concur)
END OF DOCKET SHEET

Northeast District
Alhambra Court-
House

150 W. Commonwealth
Ave, Alhambra-CA 91801
(626) 308 5521

Small Claims Case
No. ALH 02S01320

PLAINTIFF /DEMANDANTE

CARLEO, FRANK ESQ.
600 W. Main Str, #203
Alhambra, CA 91801

DEFENDANT

WANG, Mrs. JAN
1835 S. Sierra
Ave, Apt. A
JOHN CHOW, M.D.
3100 Del Mar Av
Rosemead, CA 91770

PLAINTIFF's CLAIM

1. [x] a. Defendant owes me the sum of $ 500.00, not including court costs, because (describe claim and date):
THIS IS AN APPROXIMATE SUM, AS OF
NOV. 13, 2002 Date: 11/13/02.
2. [x]a. I have asked defendant to pay this money, but it has NOT been paid.

Date: 12/17/2002. FRANK CARLEO

Northeast District (19410)
Alhambra, Courthouse
150 W. Commonwealth Ave
02S01320
Alhambra, CA 91801

SMALL CLAIMS
Case No. ALH

NOTICE TO ALL PLAINTIFFS AND DEFENDANTS

PLAINTIFF
DEMANDANTE

Carleo, Frank Attorney at Law
600 W. Main Str, Ste 203
Alhambra, CA 91801

DEFENDANT
DEMANDADO

WANG, Ms Yan Ju

1835 S. Sierra Vista Ave, Apt. A
Alhambra, CA
91801

JOHN CHOW, M.D.
3100 Del Mar Ave
Rosemead, CA 91770.

JUDGMENT AND NOTICE OF ENTRY OF JUDGMENT

Judgment was entered as stated below on 7/31/2003.
CARLEO SHALL PAY JOHN CHOW, M.D.

Defendant does NOT owe plaintiff any Money on plaintiff's claim.

Other (specify):
Defendant shall take $834.20 which is 2/3 of the $1252.00 being held in plaintiff's trust account. No costs awarded.

Dep. KARLEEN A, DAUGHERTY
"S"

Northeast District(19410)

Alhambra Courthouse
150 W. Commonwealth Ave
Alhambra, CA 91801
626 308 5521

SMALL CLAIMS CASE
No. ALH 04S01434

PLAINTIF
FDEMANDANTE

DEFENDANT
DEMANDADO

Carleo, Frank, Esq

600 W. Main St, Ste 203
Alhambra, CA 91801
(626) 280-0582

PAIVA, GREGORY, Esq
4295 Jurupa Str.
Ontario, CA 91761
(909) 390-1515

PLAINTIFF's CLAIM

1. [x] a. Defendant owes me the sum of $2918.64, not including court costs, because (describe claim and date) : 1/01/2003
CHECK STOLEN BY ATTYS PAIVA.

PLAINTIFF's claim was denied on 1/4/2005 by the Court, notice was sent by Dep. C. LEE, on the above date (1/4/2005).

Attorney PAIVA was the attorney for consolidated cases
03C01169 (LIZHAO and QIANG LIU)

Frank Carleo (# 065390)
600 W. Main Str St 203
Alhambra, CA 91801
Tel: 626 280 0582
FAX: 626 280 8236

Attorney plaintiff
In proper

LOS ANGELES COUNTY SUPERIOR COURT

Northeast Judicial District-
PASADENA COURTHOUSE

FRANK CARLEO, an Individual,
Plaintiff,
Vs.
PAUL M. DU, an individual; HPJ
INC., a California Corporation
Dba ABS Auto Body Repair &
Paint, and DOES 1 through 10, inclusive,
Defendants.

CASE NO. GC 031371 (UNLIMITED
JURISDICTION)
COMPLAINT FILED: 2/26/2003

NOTICE OF RECLASSIFICATION

FILED
LA Superior Court
DEC 12, 2005
By AMANDA CABALLERO, Dep.
CASE NO. 05C 01879
(Limited now)

FRANK CARLEO
Washington Mutual Bank Building
110 W. Las Tunas Dr, STE F
San Gabriel, CA 91776
Tel. 626 298 5307
FAX: 626 280 8236

Attorneys for GEOFF POPE
+plaintiff and cross defendant attorney in pro se

LOS ANGELES SUPERIOR COURT

Northeast Judicial District-
Pasadena Courthouse

FRANK CARLEO, Case No. 05C01879
Plaintiff, vs.
PAUL DU, HPJ, INC.,
Defendants.

PAUL M. DU, HPJ, INC.
Cross-complainants,
vs.
FRANK CARLEO, ETC.,
Cross-defendants.

PLEASE TAKE NOTICE THAT the within case has been settled..
Dated: 02 Dec. 2009

"s"
FRANK CARLEO

CITY OF MONTEREY PARK
320 W. Newark Ave
Monterey Park, CA 91754-2896
"http://www.ci.monterey-park.ca.us"

January 13, 2004.

AFFIDAVIT

CASE NAME:	FRANK S. CARLEO v. ESTHER CHOW
CASE NO:	02C01282 & 03C01168 & 03C01169
FILE NO:	02-4219 (&01-6761 & 01-6625)

I, D.J. Casey, Records Clerk for the City of Monterey Park Police Department acting as authorized agent for the Custodian of Records, certify and declare that the attached documents are true copies of the records described in the subpoena. (Reports made to the Monterey Park Police Department by FRANK S. CARLEO that were similar to "burglary" have been included as well as the only reports which included BONNIE WU, A.K.A. BANGYU WU.)

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 13th day of January 2004, at Monterey Park, CA 91754.

"D.J. CASEY, 180C/s"
Records Clerk
Monterey Park Police Department
(626) 307-1211

Memo to Mr. FRANK CARLEO
From Bonnie Wu

July 28, 2002, Sunday
1:45 pm

I came into the office and found Ralph Lee, the locksmith was here changing the lock on the front door of the office. While then I discovered TONG, LILY ZHAO, LILY's husband, LIU QIAN, ESTER, and another unknown middle-aged Asian male moving plastic file boxes out of the office. One man was going through the closed INS files box(singular). Mr. TONG and LILY were in the back office. The back office's door is wide open. I locked that door on Friday.. . . .

Page 2:

The property that they took away.

1. ALL TONG's files with all the bills that Connie was working on.
2. ALL the paper (2 boxes) in the back office. He(unknown person) said that he paid for it.
3. ALL LILY's case (2 boxes) away. Police officer order LILY's husband to bring it back to the office.
4. The calendar on BENNIE's desk. The officer ordered him to bring it back.
5. They brought back 2 boxes out of the 5 BOXES THEY STOLE. The two boxes were not as full as I remembered.

WU's TESTIMONY: R.T. page 39-QIANG WANG STOLE total of 5 BOXES. (lines 1, 2 dated 12/4/05 –emphasis added).

FRANK CARLEO
Attorney at Law
CA. Lic. No. 065390

447 W, Garvey Ave,
ste 292, Monterey
Park, CA 91754
626-280-0582
Fax: 626 280 8236

August 12, 2002 HAND-DELIVERED

Monterey Park Police Department
Attn: Detective R. Lee
320 W. Newmark Ave
Monterey Park, CA 91754

Re: 1. The burglary(NOT TRESPASS) of my office on 7/28/2002 Police Report File No. 02-4219
2. Your request for a list of the missing files.

Dear Detective LEE;

I had a chance to review most of my files. I am certain that at least the following files are missing.
1. Ms. WANG – closed immigration matter and pending Pasadena Superior Court case. Only the closed immigration case is missing.
2. Ms. MOU. The closed immigration file is missing from my office.
3. Ms. LI + Mr. CHEN. Portions of the pending San Diego County Superior Court Case are missing from my office.
4. Ms. ZHAO & Mr. LIU(MARSH & HERB IMPORTER, Inc.). All of the Marsh & Herb Importer, inc. files are missing from my office.
5. Mr. KAM-MIN CHIN. As far as I can compute, approximately 80% of Mr. CHIN's files are missing from my office.
6. Mr. QIANG WANG. His closed immigration file is missing from my office.

7. NINGBO GREEN LEAF CORP. (Sjh International). The entire file is missing from my office.
8. SHONG-CHING TONG + YEI-HWEI TONG. All of the "Tong" files are missing from my office.
9. My assistant Ms. WU also has several files and personal items missing from the office.

I sent two "moles" to the meeting of the alleged disgruntled clients on Sunday. One was a current client named ARTHUR MASAOKA....

During the meeting Mr. TONG admitted stealing the above files. He admitted forgoing the name of Ms. GONG to change the mail address. He admitted that he was going to take the files and fabricate some incriminating financial information and put it in the files. He further admitted to get me in some trouble with the STATE BAR, he was going to forge my signature to a change of mail address and get all my mail transferred to his house. Mr. TONG even admitted taking other files and documents from my office. According to MASAOKA and Ms. SARVIS, he was extraordinarily arrogant and said literally that NO ONE COULD TOUCH HIM. His attitude was "I STOLE ALL THE STUFF, SO WHAT."
Page 2:
The claims of this "gentleman" have Now gone from the bizarre to even more bizarre. If you want any further information, please let me know immediately...
Sincerely,

"s"
FRANK CARLEO
Note: No DU's files were ever missing then!

FRANK CARLEO	Fax Date to CHOW:
Attorney at law	626 2885300, 11:30AM
CA Lic.No. 065390	1/23/2004 at 11:30 AM

Re: *FRANK CARLEO v. ESTHER CHOW*

Gentlemen and Ms. CHOW

Last night in reviewing some files before
I had them shredded, I found the original lease. . .

Sincerely,
"s"
Frank Carleo

TRUE CONFESSION BY FRANK CARLEO AT TRIAL, FIVE (5) YEARS LATER AFTER THE ILLUSORY TRESPASS, ON 7/28/2002.

DIRECT EXAMINATION BY ATTORNEY POPE AT TRIAL DATE 12/5/2007:

Mr. POPE:

Q. Mr. CARLEO, showing you what's been marked as plaintiff's exhibit 5 for identification, what is that document?
A. This was a list that, when I got back, I had Ms. WU arrange, and I believe that's her handwriting on here of what appeared to be missing. Without going through much more, the investigation, all of TONG's files in plastic boxes R.T. page 247, dated 12/5/07, lines 9-17 R.T. Page 248, lines 9-17.
R.T. Page 248, lines 2-11:
Answer by CARLEO:

some way, looked like people had been picking over them to try to get immigration files. So I got to the point wherever I had immigration files after that of JUST SHREDDING THEM. . . .

CHOW WAS NOT IN THE BACK ROOM, BECAUSE SHE RAN AWAY, "when the police arrived." R.T. PAGE 48 LINES 3 thru 7:
Mr. POON (asking WU):
Q So did you observe any officer call or interrogate Mrs. CHOW at the premises?
A NO
Q So where was she when the police arrive?
A She ran away.

The Court: . . . SO NONE OF THEM WERE PRESENT WHEN THE POLICE ARRIVED?
A by WU:
TONG WAS THERE.
Court again: Mr. TONG WAS THERE. Mr. LIU WAS NOT THERE?
Witness WU:
Mr. LIU WAS NOT THERE. THEY ALL RAN AWAY. R.T. page 49 dated 12/4/2005, lines 1-7.

By Mr. POON:
How did you know the police officers questioned LILY's husband?
WU—Because I told the police officers who where there who took the stuff away, so the officer made Mr. TONG to use the office phone to call LIU Qiang's cell phone. . . I didn't mention the police officer interrogate Ms. CHOW, and she never returned. R.T. page 51, lines 8-19, Note: Chow was not there, so no need to return.
DATED 12/4/2007.

TRIAL COURT'S TRANSCRIPT FOR 12/5/07

Attorney POPE DIRECT EXAMINATION OF CARLEO (REDACTED):

POPE: R.T. dated 12/5/07, page 246 lines 2-12
Q. And can you give the Court a list of what property was?
A. There was a list written at the time, and without looking at the list, I really have no independent recollection. Generally income tax records were missing from the back room. Generally, Ms. WU 's file immigration file containing all of her confidential information on the political activities of her father and mother was missing. . .

Page 247 lines 25-28:

A. ....Mr. DU's files were missing

Page 248 lines 1-6:

A. ALL OF MY TAX RECORDS FOR 2002 THAT I KEPT IN THE BACK ROOM WERE MISSING.

Page 249, lines 14-15 (Judge MILTON ACTING AS CARLEO's private attorney:
The court:
How about the DU MATTER? Were you able to –what did you do in that case?
CARLEO:
I went back to the court. I had to make copies of quite a bit of the DU matter, and then he apparently hired a new attorney, so I gave him copies of what I was able to make.

SUPERIOR COURT OF THE STATE OF
CALIFORNIA FOR THE COUNTY OF LOS ANGELES

FRANK S. CARLEO, Plaintiff, RALPH LYU, et al, Defendants. And related actions	CASE NO. 02C1282 (Lead case) Decision and Order Regarding Sanctions FILED ON 6/21/05 Los Angeles Sup. Court, By Dep. C.L. ORTEGA

(due to many pages, petitioner redacted this order to minimize the pages)

The above-entitled matter came on for hearing on 6/17/05, in division 3, with regard to the Court's April 21, 2005, order to show cause why sanctions should not be imposed against plaintiff FRANK CARLEO for his failure to appear on 4/21/05 for a trial setting conference, and the May 25, 2005 motion for sanctions filed by defendants Ralph Lyu (dba ALLSTATE LOCK & KEY SERVICE & PERFECT LOCK & KEY SERVICE) and ESTHER CHOW. . .The court took the matter under submission on the same date. After further consideration of all the pleadings, evidence and argument of the parties, the Court makes the following findings and orders:

As an initial matter, the court finds that plaintiff FRANK CARLEO had notice that on 6/17/2005, the court was contemplating sanctions against him, including dismissal, for his failure to appear

At the 4/21/2005 trial setting conference.

THE 4 LAWSUITS FILED BY PLAINTIFF INVOLVING THE SAME CONDUCT

On 8/12/2002, FRANK CARLEO filed a complaint in case No. 02C01282 against RALPH LYU, ALLSTATE LOCK & KEY SERVICE ("ALLSTATE"), Perfect Lock & Key Service (Perfect Lock"), and does 1 to 10. In this lawsuit, plaintiff alleged that at he direction of Mr. SHONG CHING TONG, defendant LYU (DBA Allstate & Perfect Lock) –a locksmith, changed the lock of the door of plaintiff's office (located at 447 W. Garvey Str, Ste 202, Monterey Park, CA) on 7/28/2002, and let Mr. TONG and others into plaintiff's office without plaintiff's permission. Plaintiff's complaint states 3 causes of action against these defendants, general negligence, "statutory violations" of §§ 6980(j), 6980.10, 6980.13, and/or 6980.55 of the B&P Code; and trespass.

On 7/28/2003, FRANK CARLEO filed a separate lawsuit against Mr. SHONG CHING TONG, and DOES 1 through 10, in case No. 03C01167. In this lawsuit, like in the 02C01282 case, plaintiff alleged that he had the right to possession of the real property premises known as 447 W. Garvey Ave. Ste202, Monterey Park, CA 19754, and that defendants, without plaintiff's permission, broke into and entered the premises on 7/28/2002. "Once inside, they removed various items of personal property belonging to FRANK CARLEO and his clients. As a result of these alleged actions," the confidence and secrets of the clients of Frank Carleo became public information when "defendant TONG" "published the materials that they had stolen." Plaintiff goes on to state that "Mr. SHONG-CHING TONG and

the defendants, and each of them used the files that had been unlawfully removed from Mr. CARLEO's law office to file spurious and groundless complaints against [plaintiff] with the California State Bar." Plaintiff seeks $24,000 in damages (including $10,000 in exemplary damages).

On the same date that FRANK CARLEO filed his lawsuit against Mr. TONG, Mr. CARLEO filed two identical lawsuits against ESTHER CHOW, and DOES 1-10, like he did in Case numbers 02C01282, 03C01167; 03C01168 and 03C01169, (ALL CASES HAVE THE EXACT SAME PROPERTIES STOLEN BY THE ADDITIONAL DEFENDANTS).

In opposition to defendant CHOW's demurrer, plaintiff stated that Mr. SHONG-CHING TONG BURGLARIZED HIS OFFICE AND THAT ESTHER CHOW ASSISTED Mr. TONG BY "ACTING AS A 'look out' and fled the premises as the police were arriving." See plaintiff's Declaration dated 9/13/2003). . . . After the noticed order to show cause, the court sanctioned plaintiff CARLEO IN THE AMOUNT OF $225 ($75 in each case filed on 7/28/2003) for failure to inform the court that the Case Nos. 03C0117, 03C01168, and 03C01169 were related to Case No. 02C01282. There is NO indication in the Court files that plaintiff ever paid the sanction.

PRIOR LACK OF COMPLIANCE

On 2/3/2005, a trial setting conference was held and continued until 2/24/2005, with plaintiff to give notice. Plaintiff's notice was defective because it listed

the date of trial setting as 2/25/05. Accordingly, when the matter was called on 2/24/2005, all of the defendants were not present requiring the Court to continue the trial setting conference again to 2/25/2005. Accordingly, when the matter was called on 2/24/2005, all of the defendants were NOT PRESENT, requiring the Court to continue the trial setting conference again to 4/21/2005, with plaintiff ordered to give notice.

On 4/21/2005, the court held a trial setting conference. Since the plaintiff was NOT Present, the Court continued the matter to June 17, 2005 and, on its own motion, schedule an order to show cause for sanctions against plaintiff for his failure to appear at the 4/21/2005 trial setting conference. The court and the defendants were NOT informed by plaintiff that he would not be present at the trial setting conference on 4/21/2005. . . . In his declaration, plaintiff requested that a trial in this matter should be set for after September 2005 to allow him to file summary judgmet motions. . . .

The June 17, 2005 Hearing

At the hearing on 6/17/2005, plaintiff and defendant CHOW were sworn and testified. The plaintiff testified that he never served Mr. SHONG-CHING TONG and will file a voluntary dismissal against SHONG-CHING TONG, forthwith. The Court notes that MORE than ONE Year ago on 3/16/2004, plaintiff stated that he would dismiss the action against SHONG CHING TONG.

The court finds that defendant SHONG-CHING TONG is an indispensable party to these proceedings. Accordingly, plaintiff's failure to serve Mr. TONG after almost 2 years, and his acknowledgment that he will dismiss Mr. TONG voluntarily, indicates that plaintiff brought this lawsuit and failed to prosecute it against the remaining defendants in a timely manner for an improper purpose, harassment. With the exception of Mr. TONG, the remaining defendants are at MOST, collateral and insignificant players in the drama that occurred on 7/28/2002 when plaintiff's law office was allegedly broken into at the direction of Mr. TONG.

Plaintiff also testified that he never informed, by telephone or fax, any of the defendants or their attorneys that he would not appear at the 4/21/2005 trial setting conference. All of the defendants stated that they never received a copy of his declaration, and the proof of service submitted by plaintiff on 4/20/2005 (and dated 4/21/2005) is false and plaintiff knew it was false.

The Court also finds that plaintiff filed his 4/20/2005, declaration to give him 'cover' for his willful failure to appear on 4/21/2005. Plaintiff's testimony at the 6/17/2005 hearing that he had been ready for over 9 months is belied by his request in the 4/20/2005 declaration that the trial be put over until after SEPTEMBER 2005. The Court does not find plaintiff's testimony credible or persuasive with regard

to his claim that he called the clerk's office prior to 4/21/2005 concerning his alleged calendar conflict.

CONCLUSION

Taking into consideration the previous lack of compliance in this case, the ineffectiveness of prior sanctions, plaintiff's failure to serve an INDISPENSIBLE PARTY in almost 2 years, plaintiff's knowing misrepresentations in the 4/21/2005 proof of service, his intent to deceive the Court and defendants by filing BUT NEVER SERVING A DECLARATION at the 11th hour concerning an alleged calendar conflict, and his misrepresentations at the 6/17/2005 hearing, the sanction of dismissal against ALL DEFENDANTS IS APPROPRIATE. Plaintiff's actions, and inactions, resulted is a waste of time and judicial resources, and defeated the Legislative intent behind the trial court Delay Reduction Act. This action is dismissed against ALL DEFENDANTS, with prejudice.. . .

With regard to defendants LYU and CHOW's motion for monetary sanctions, the Court finds the sanctions in the amount of $1,000.00 for 4 hours in attending 4/21/2005 hearing and preparing the motion is fair and reasonable, plus costs of $126.30. Plaintiff shall pay monetary sanctions in the amount of $1,126.30 to these defendants' attorney, JASON HSU, within 30days.. . .
IT IS ORDERED.

"s"

LUIS A. LAVIN
June 21, 2005

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES NORTHEAST DISTRICT, ALHAMBRA COURTHOUSE (19410) 150 W. COMMONWEALTH AVE, ALHMBRA, CA, 91801 TELEPHONE: 626 308-5521

CARLEO, FRANK v. RALPH LYU, et al
Case No. ALH 02C01282 (Main case)

Court Convened at 10:30 A.M., on 12/5/07 in Dept. NEX Present: Hon. DAVID S. MILTON. Judge A. Brennan, Dep. Clerk and the following proceedings were had: NOTICE GIVEN PER CCC § 664.5

Plaintiff FRANK CARLEO
GEOFF POPE, ESQ APPEARING BY
Defendant(s) RALPH LYU
And ESTHER CHOW
RICKY W, POON ESQ: QIANG LIU
APPEARING BY:

in pro per
NATURE OF PROCEEDINGS:
DISPOSITION
Pursuant to the court's discretion, the cause is argued as to defendants LYU, ALL STATE LOCK & KEY, AND PERFECT LOCK & KEY.
On court's own motion, a finding of non-suit is made as to defendants LYU, ALL STATE LOCK & KEY, AND PERFECT LOCK & KEY.
Pursuant to the Court's discretion, the plaintiff argues the cause as to defendants ZHAO & LIU, WHO ARE NOT PRESENT OR REPRESENTED. On the Court's own motion, a finding of non-suit is made as to defendants ZHAO & LIU. Pursuant to the Court's discretion, the cause is argued as to defendants

CHOW & WANG, THE LATTER OF WHOM IS NOT PRESENT OR REPRESENTED. THE COURT FINDS IN FAVOR OF THE PLAINTIFF AND AGAINST DEFENDANTS CHOW & WANG FOR A SUM OF $25,000, JOINTLY AND SEVERALLY. SAID JUDGMENT INCLUDES $2000 FOR PERSONAL PROPERTY LOSS AND $23,000 FOR DAMAGES CAUSED BY INTERFERENCE WITH THE PLAINTIFF LAW PRACTICE. THE PLAINTIFF IS ORDERED TO PREPARE THE JUDGMENT AND A MEMORANDUM OF COSTS (CONTINUED)

The foregoing minutes are correct.

BRENNAN
Deputy clerk

Note: no exact amount for "Stealing Du's files, yet, at trial, "interference for Du's records became moot, because Carleo setled with Du on 12/2/2009 (emphasis added)
Carleo committed wobbler offense then and now

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES NORTHEAST DISTRICT, ALHAMBRA COURTHOUSE [19410]

150. W. Commonwealth Ave, ALHAMBRA, CA 91801

Telephone: (626) 308-5521

CARLEO, FRANK v. LYU, RALPH

MINUTE ORDER AND CLERK's NOTICE OF AND/OR APPEALABLE ORDER

Court Convened at 11:00 AM, on 11/9/2007, in Dept. NEX

Present: Hon. DAVID MILTON, Judge

A\A. BRENNAN, Deputy Clerk

and the following proceedings were had: notice given per § 664.5:

CASE NO. ALH 02C01282

Plaintiff(s) CARLEO, FRANK

AND WITH KATHY Q. HAO, Specially appearing for GEOF POPE

Defendant(s) LYU, RALPH

RICKY W. POON ESQ: For ESTHER CHOW

NATURE OF PROCEEDINGS: CAUSE CALLED FOR AN ORDER TO REOPEN DISCOVERY AND COMPEL PLAINTIFF FOR DEPOSITION. DISPOSITION: COURT RULES AS FOLLOWS: THE COURT DISMISSES DEFENDANT TONG FROM THE MATTER FOR BEING UNSERVED FOR SEVERAL YEARS. . .

(REDACTED FOR SPACE PURPOSES)

The foregoing minutes are correct.

BRENNAN

Dep. Clerk

Dated: 11-09-2007.

SUPERIOR COURT OF CALIFORNIA, COURTY OF LOS ANGELES

TRUST DEPOSIT RECORD
(CIVIL / SMALL CLAIMS ONLY)

Division / Section

CIVIL
Depositor Name:
ESTHER CHOW

Case No. 02
Attorney For:
Defendant/
Appellant

Depositor Mailing Address
745 E. Valley Blvd #517,
San Gabriel, CA 91776

Type of Deposit: CASH UNDERTAKING:
Other (Specify below):
TO STAY ENFORCEMENT PENDING APPEAL
Comments; / Explanation:

This undertaking by Appellant/ Defendant ESTHER CHOW is to stay ENFORCEMENT OF ALL JUDGMENTS ISSUED BY Judge DAVID S. MILTON under CCP § 917.1 and 917 et seq.

NOTE: CARLEO, I WANT TO BE ON RECORD THAT YOUR EXTORTION WAS NOT PAID WILLINGLY, OR VOLUNTARILY, EVER!!!
L.A.S.C-ALHAMBRA RECEIPT # ALH236091001
Dated 8/28/08 11:41:06 A.M.
PAYMENT: $20,000 CASH

NOTICE SENT TO:

CHOW, ESTHER
745 E. Valley Blvd, # 517
San Gabriel, CA 91776

FILED
LA Superior Ct.
7/19/2006
by Murphy, Dep.
"S"

APPELLATE DIVISION OF THE SUPERIOR COURT

FRANK CARLEO, Plaintiff
Vs.
RALPH LYU ER AL, ALHAMBRA 02C01282
Defendants.

CASE BV 026123
ORDER FIXING TIME TO FILE BRIEFS

Good cause appearing, IT IS ORDERED that the time for filing briefs in the above-entitled appeal is fixed as follows: BRIEF must be received IN THIS DEPARTMENT NO LATER THAN:

Appellant's Opening brief-AUGUST 8, 2006.
Respondent's Brief-AUGUST 28, 2006
Appellant's Reply brief-September 7, 06

PATTI JO McKAY
Presiding Judge

*This appeal was from the Honorable Judge LAVIN's dismissal with prejudice who saw CARLEO's lies before him. APP D inclusive, interwoven with ALL APPEALS NOW.

APPELLATE DIVISION OF THE SUPERIOR COURT

FRANK CARLEO
Plaintiff,
vs.
ESTHER CHOW(Alhambra 02C01282)Defendant

CASE NO. BV 027694

ORDER FIXING TIME TO FILE BRIEFS

Good cause appearing, IT IS ORDERED that the time for filing briefs in the above-entitled appeal is fixed as follows. Briefs must be received IN THIS DEPARTMENT NO LATER THAN:

Appellant's Opening Brief- 09/29/2008
Respondent's Brief- 10/20/2008
Appellant's Reply Brief- 10/30/2008

Note: This same justice ALLOWED CHOW to file her interwoven brief BV 026123 in proper mandated by 28 U.S.C. § 1654

APP F

PATTI JO McKAY
Presiding Judge

IN THE APPELLATE DIVISION OF THE
SUPERIOR COURT, STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

FRANK S. CARLEO
Plaintiff-Respondent

vs.
ESTHER CHOW
Defendant-Appellant.

FILED LA Sup.
Ct 9/26/08
By Dep. MURPHY
STRICKEN 12/18/08
per court order

BV 027694

Alhambra Trial Court Numbers:
02C012821 [(CARLEO V. RALPH LYU,)]
Main case consolidated with cases:
03C1167 CARLEO v. SHONG CHING TONG;
03C01168, CARLEO v. CHOW] AND
03C01169 [CARLEO v. LI ZHAO, QIANG LIU,
QIANG WANG (ALL FOUR SPLITTED CAUSES
OF ACTIONS CONTAIN 40 DOES)]

APPEAL FROM AN ORDER OF THE LOS ANGE-
LES COUNTY SUPERIOR COURT,
NORTHEAST DISTRICT
HONORABLE DAVID S. MILTON, JUDGE

Appellant's OPENING BRIEF

Esther Chow
Appellant
745 E. Valley Blvd #517
San Gabriel, CA 91776

NO: S178714

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

FILED
RECEIVED
12/14/2009
APPELLATE DEPT.

ESTHER CHOW,
Petitioner,
vs.
THE APPELLATE DIVISION OF THE SUPERIOR COURT OF LOS ANGELES COUNTY,

Respondents,
FRANK S. CARLEO,
Real Part in Interest.

NO. B220586 (2nd CA)
Los Angeles County Nos:
BV 027694; BV C27695 BV 028102;
BV 277982; BV 26123

ALHAMBRA SUP. CT: 02C 01282 (MAIN CASE)
INTERWOVEN WITH 03C01167; 03C01168 and 03C01169

REQUEST FOR JUDICIAL NOTICE

RECEIVED 12/14/09
Clerk of
Supreme Court

APP. F 3

IN THE APPELLATE DIVISION OF THE SUPERIOR COURT, STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

FRANK S. CARLEO
Plaintiff-Respondent,
vs.
ESTHER CHOW,
Defendant-Appellant.

BV 027694

Alhambra Trial Court Nos:
02C01282 [CARLEO V. RALPH LYU, main case consolidated with cases:
03C01167 CARLEO v. SHONG CHING TONG;
03C01168 [CARLEO v. CHOW] and 03C01169 [CARLEO v. LI ZHAO, QIANG LIU, QIANG WANG] ALL FOUR SPLITTED CAUSES OF ACTIONS CONTAIN 40 DOES.

APPEAL FROM AN ORDER OF THE LOS ANGELES COUNTY SUPERIOR COURT,
NORTHEAST DISTRICT
HONORABLE DAVID S. MILTON, Judge

APPELLANT'S OPENING BRIEF

TO: The Honorable Chief Justice and Associate Justices of the Appellate Division of and for the Los Angeles Superior Court in and For the County of Los Angeles, State of California

Appellant ESTHER CHOW("CHOW") respectfully appeals from ALL the awards, adjudicated against her at the disastrous trial since DECEMBER 4, 2007 and DECEMBER 5, 2007, to dismiss with prejudice the entire actions as was determined by the Honorable Judge LUIS A. LAVIN dated 6/21/05, forthwith.

Appellant CHOW is the defendant in case 03C01168, for a very simple trespass to Carleo(FRANK S. CARLEO)'s purported property and his chattel, on 7/28/02, consisting of "8 archive boxes of his client files" voluntarily shredded on 1/22/04 and confirmed at trial R.T. 248, lines 12-13, designated on 7/22/09, item 2 and R.T. 289, (TONG STOLE CARLEO's records to make a complaint with the STATE BAR). The MPP's (MONTEREY PARK POLICE) subpoenaed records in the brown envelope identified what TONG stole. (lodged by justice in BV 027695)

2. CHOW WAS NOT IN THE BACK ROOM where CARLEO's taxes and BONNIE WU's INS (Immigration) papers were locked inside. R.T. page 289 (12/4/07). TONG and LI ZHAO were the only ones present on 7/28/02.

3. QIANG WANG STOLE TOTAL OF FIVE BOXES on 7/28/02, R.T. pages 38 and 39, dated 12/4/07. He never appealed. CARLEO never defaulted him either.

4. CHOW first 'did not carry a box'; however after attorney GEOF POPE redirected WU, it became a box, R.T. 41, against R.T. 61.

5. CHOW was falsely and criminally accused of committing GRAND THEFT LARCENY (GTL), at trial only. ERGO, Judge MILTON "JA, judge ADVOCATE" shall apply CAL CRIM 220 and NCFM to support ALL LIES by WU and MAURO RUBEN CHAVEZ ("convict, L.A. Crim. Case no. 6A010237

WU and CONVICT contradicted each other about what CHOW "stole" on 7/28/02 at trial, without any report and complaint filed with MPP. By instincts, R.T. pages 40, 45, 49, dated 12/4/07, more perjuries, based on degenerated camera minds, were concocted by WU. WU, suddenly HAD ALL OF THE STOLEN PROPERTIES in her knucklehead which JA (judge advocate) accepted as true. He distinctly used the crucial word "IF the court believes Ms. WU's testimony." R.T. page 353 lines 25-26, dated 12/4/07.

By missing the crucial word "IF the court believes Ms. WU's testimony." By missing the crucial word "BECAUSE", JA should apply CAL CRIM 220 and NCFM and he be reported to the judicial office into disrepute. R.T. page 353.

It was perfect when WU lied to the court and "NOT 100% sure, R.T. 44, 59; DON'T REMEMBER, R.T. pages 51, 52, 60, but it is GTL(GRAND THEFT LARCENY) when CHOW testified exactly in the same manner, which is discrimination to the HIGHEST DEGREE, R.T. page 168

STATEMENT OF THE CASE

In these consolidated cases, his ONE SINGLE INJURY of trespass to his property and to his chattel, were split into 4 separate actions with 40 DOES. Carleo was 100% condoned and assisted by JA, WHO ACTED IN CONERT to decimate CHOW's secured and guaranteed due process of law under the 14th Amendment to the U.S. Constitution without provocation.

JA took upon himself to amend 03C1168, against CCP §472 and case law Leader v. Health Industries of America, Inc. (2001),

89 C.A. 4th 603 at 612, R.T. pages 353-354 dated 12/5/07 lines 5-6. JA further abused his discretion when he refused to demand that CARLEO showed proof that he mitigated his damages, demanded by *SEVERINI v. SUTTER BUTTE CANAL*, Co 59 C.A. 154, at 156-157.

Those 40 DOES were also never identified or dismissed at trial, prohibited by *PEARLSON v. DOES* 1-646, 76 C.A. 4th 1005, 1012, against CCP § 583.150.

Based on perjured and false testimonies, JA found CHOW guilty of BRD (beyond reasonable doubt) WITHOUT COMPETENT EVIDENCE, at TRIAL ONLY, R.T. pages 51, 52, 53 dated 12/4/07. WU and convict refused to itemize on 7/28/02, but they did at trial only, while all the stolen properties were not fresh in their heads. MPP OFFICER GRANT did not see CHOW, R.T. page 17,dated 12/4/07.

By acting as an advocate for these witnesses, who had to lie at trial because they both owed CARLEO and his attorney GEOF POPE ("POPE") attorneys' fees for representing them at prior trials, JA was prohibited by numerous cases and law. ERGO, their testimonies are profoundly tainted with prejudices, LIES AND FALSE STATEMENTS. They SHOULD NOT BE TRUSTED.

JA accused CHOW of coming back another time, R.T. 353 dated 12/5/07, lines 5-7, and as a look-out, R.T. page 354, line 12. The court in *U.S. v. TORRES-ALVAREZ* 44 Fed. Appendix 818, 819, held that "Defendant's mere presence at the crime scene was NOT enough to warrant conviction. (9t Cir. 2002). "BUT FOR THE letter of complaint dated 6/1/08 to the honorable Judge LISA LENCH, JA would never have released All 10 volumes of CARLEO's records for

appeal. He still continued to hold hostage of those files needed for this appeal, until 8/28/08.

From those orders dated 12/4/07, 12/5/07, 2/25/08 and 3/26/98, these dangerous abuses by JA, these appeals are taken.

PROCEDURAL FACTS

Since 8/15/02 until 7/28/03, 4 sham split causes of actions for ONE ONLY SINGULAR INJURY under the ruse of trespass to property and chattel, CARLEO REFUSED to amend his 40 DOES, neither did he amend his complaint timely, before CHOW filed her answer on 10/21/03.

The split causes of actions arose from the same operative facts. Unbeknownst to CHOW, one week before appearing before JA, by earlier listening to TONG to have her cases presided in his court, she committed the biggest crime in her life, JA and TONG had a very serious confrontation. After knowing that CHOW is a friend of him, R.T. 53, dated 12/4/07, the trial went downhill.

JA chited CHOW, R.T. page 168, dated 12/4/07, lines 19-23, including falsely accusing TONG of stealing trial records, opposed by Tong who complained to the judicial Performance against JA on 12/11/07, designated on 7/24/07, item 14 (emphasis added). It is perfect for WU to have senior moments, but it is GTL (GRAND THEFT LARCENY) for CHOW, who is older than the rest of those liars. (CARLEO- 63; WU is 35; CHOW is over the age of 73 years old, at trial). That is out-right discrimination which NO court should allow, against the 14th Amendment of the U. S. Constitution.

There was nothing mentioned by the MPP on 7/28/02, regarding whatever CHOW 'stole, run away by grabbing stuff, Tax and INS papers' when CARLEO NEVER filed taxes, R.T. page 320, lines 20-21 (testified by TONG on 12/5/07 during his direct examination by POON, at trial), shredded WU's papers, R.T. page 248, dated 12/5/07 when CARLEO was examined by POPE) lines 12-19),the reason why the MPP reports never mentioned about "CHOW stole" anything, R.T. 48 lines 3-7; lines 24-27, police calling LIU QIANG (emphasis added). See also R.T. pages 109, 110, 154 and 155.

CARLEO HAD NO RECEIPT FOR HIS 'damages', R.T. dated 12/5/07, pages 355, 356, 358.

ISSUES ON APPEAL

Whether JA provided CHOW any competent evidence to adjudicate her guilty of GTL. Answer: no
Whether JA is entitled to amend CARLEO's sham complaint? Answer: no
Whether JA should comply with CALCRIM §220 and the nature & consequences of forensic misconduct in the prosecution of a criminal (NCFM) case? Answer: yes

LEGAL ARGYMENTS

JA failed to provide CHOW with any evidence, competent or not, to adjudicate her guilty of GTL.
In order for the GTL to pass muster, JA should order CARLEO to uncontestedly provide her with competent evidence before she would guilty of GTL, since the award is MORE than

than $400 pursuant to CCP § 487, sub(a) at the time the theft occurred on 7/28/02. JA ACUSSED CHOW of the above crime, pursuant to R.T. dated 12/4/07, pages 47, 48, 64. WU refused to tell MPP ABOUT CHOW, ONLY AGAINST THE OTHER WHO stole files and boxes, R.T. pages 38, 39, 50, dated 12/4/07, lines 13-22.

Intentionally, WU and even CARLEO refused to file the original & supplemental report when he returned from CANADA, about what items were 'taken away, grabbed, ran away with, on 7/28/02 (emphasis added) by CHOW'. The reason why they did not report was to lessen their burden of proof for GTL. This is NOT what CALCRIM § 220 and FORENSIC MISCONDUCT IN THE CRIMINAL PROSECUTION OF A CRIMINAL CASE (NFCM) demanded. There is NO fact that CHOW ever committed GTL on 7/28/02, but only INSTINCTS and lies FIVE YEARS LATER on 12/4/07. PLEASE COMPARE with R.T. pages 161 dated 12/4/07, lines 9-22.

The value of property is an element of the offense of GTL with which CHOW was charged under the ruse of trespass only. Therefore, it must be established by competent evidence, while the MPP who are disinterested parties, DID NOT TESTIFY, affirm or declare what CHOW "stole, etc. etc." It is CARLEO and his JA's burden to prove every element of the BRD (burden of proof) crime: *IN RE WINSHIP, 397 U.S.* 358, 365 (1970); *BERGER v. U.S., 295* U.S. 78, 85, 88, 89 (1935); *SULLIVAN v. LOUISIANA*, 508, U.S. 275, 277-282 (1993).

Having argued that JA and CARLEO failed to produce and BRD COMPETENT evidence, the GTL against CHOW SHOULD BE

DISMISSED as previously done by the Honorable Judge LAVIN on 6/21/05, with prejudice forthwith. In that appeal from dismissal CARLEO, he waived all other issues, except dismissal (BV 026123, on 4/23/07). JA IS PROHIBITED BY LAW, CCP § 472, to amend without LEAVE OF CARLEO's sham trespass, after CHOW FILED HER ANSWER ON 10/21/03.
CARLEO never amended his 40 DOES NOR HIS SHAM COMPLAINT 03C01168. JA had NO power to amend anything, let stand to voluntarily amend the complaint. Outside the scope of JA's power, he not only exceeded his official duty since 12/4/07, but made a mockery of the judicial office, to the present time. It was the reason why he left Los Angeles criminal Court for going against his judge Supervisor, acting as a maverick. He repeated his gross incompetence and dangerous abuses, against the case law *LEADER v. HEALTH INDUSTRIES of AMERICA*, Inc, 89 C.A. 4th 603, 612, 613 (2001). See JA's profile designated on 7/24/08, item 2, inclusive.

CCP § 472 prohibits JA to amend without CHOW's approval. He blatantly violated that too, by amending prayer to jointly and severally, R.R. page 361, dated 12/5/07, lines 7 9.

JA and his client CARLEO are NOT authorized to amend after CHOW filed her answer. He was the judge so he figured out that he is authorized to amend, from $25,000 to more than the limited jurisdiction. JA also added AID and ABET, R.T. pages 353 (as a look-out; she arrived at a later date) and 354, lines 5 6, dated 12/5/2001, wearing more that ONE hat prohibit ed by *IN RE MURCHISON*, 349 U.S. 113, 136-138

(1955); *McCartney v. Commission* on Judicial Qualifications, 12 C 3d 512, 533 (1974), casting aspirations upon CHOW and TONG, R.T. pages 351, 353, 359 (emphasis added) dated 12/5/2007; *KLOEPFER v. Commission of Judicial Performance*, 49 Cal 3d 826, 83(1989), judge was removed from office/bench.

Another main reason why CARLEO refused to report any 'stealing by CHOW', was that he DID NOT FILE TAX RETURN. R.T. page 320, dated 12/5/07, lines 20-22.

ERGO, there was NO TAX RETURN TO STEAL. CARLEO also refused to mitigate his damages, because he had NO damages, R.T. 355, dated 12/5/07, lines 12-19; page 354 since his lost papers were in the back room on 7/28/02. TONG & LI ZHAO only were in the back room, R.T. page 38 lines 1-5.

WU and CHAVEZ(convict) contradicting their perjuries, as follow:

CONVICT did not see CHOW inside the office, R.T. page 80, lines 16-21(dated 12/4/07), asked by POPE to CHAVEZ), including CHOW 'only carried a big box, not a binder';

b) WU perjured herself by saying that "CHOW DID NOT CARRY A BOX, R.T. page 41 lines 20-26. However, JA acted as her advocate when he also put words in WU's lying mouth "CHOW CARRIED SOME BINDERS" and POPE redirected WU to further lie that CHOW in fact carried a box, R.T. page 61, lines 11-14, dated 12/4/07(emphasis added). These are inconsistent lies, they are NOT evidence.

c) R.T. page 73 dated 12/4/07 evidenced more lies by convict, as follows: Lines 2-9)

"Well, when I first got there, when I was coming up the stairs, up the elevator, the elevator opened up, and seen a lady walking with another man and she told me to hold

the elevator and I held it."

His entire perjury is impeached by the colored picture shown on R.T. designation of record identified on 7/22/08, item 1. APP. F 16.

The stair is to the right of the elevator. When CHOW took the picture, the GOOD LORD provided her with a man(not known to her) who used the elevator, UP, on the left side of the stairs.

It was impossible for convict to take the stair UP without going DOWN again and then bump into CHOW, who 'told him to hold the elevator'. This was a very serious lie, and an impossibility against CC § 3530 and 3531. "THAT WHICH DOES NOT APPEAR TO EXIST IS TO BE REGARDED AS IF IT DID NOT EXIST."

"THE LAW NEVER REQUIRES IMPOSSIBILITIES."

Whether CHOW was 'inside or outside as a lookout', the case law *U.S. v. TORRES ALVAREZ*, 44 Fed. App. 818, 819 (9th Cir. 2002) held that "Defendant's mere presence at the scene of the crime was NOT ENOUGH TO WARRANT CONVICTION."

"QIANG LIU DID NOT SEE OR KNOW CHOW", R.T. pages 154, 155 dated 12/4/07, cross-examining Mr. QIANG LIU, BY ATTORNEY POON, LINES 17-28; page 155 lines 1-3.

It was very impossible for convict to go up, without going down immediately, to hold anything for CHOW. Ergo, his lies were the direct result owed to POPE who represented him for his crime in Los Angeles trial.

By refusing to timely mitigate at the time of the scene on 7/28/02, to make the instant criminal theft report to MPP, WHO were called to the scene by WU, the Court in *Severini v. Sutter-Butte Canal Co.* 59 C.A. 154, 156 (1922), held that "The law

imposes upon a party injured by another's breach or tort, the active duty of using ALL ordinary care and making ALL reasonable exertions to render the injury as light as possible. If by his negligence or willfulness he allows the damages to be unnecessarily enhanced, the increased loss, that which was avoidable by the performance of his duty, FALLS UPON him."

As a former prosecutor, acting since 12/4/07, as the ONE-MAN-GRAND JUROR-PLAINTIFF-ACCUSOR, Prosecutor advocate judge, JA was and still is guilty of serious prejudicial misconducts through the disastrous trial, contrary to all laws and cases, deprived CHOW of serious due process of law under the 14th Amendment to the U.S. CONSTITUTION.

The court in *ETZEL v. ROSENBLOOM*, 83 C.A. 2d 758, 765 (1948), admonished Judge BURNELL as follows:

"The trial of a lawsuit is a serious matter, and the courtroom is NOT the forum in which the buffoon should ascent the bench to display his wares."

The serious argument made by attorney POON at trial went from JA's right ear, out the same right ear, again, R.T. pages 101, 150, 151, 164.

POPE confessed that "LYU DID NOT KNOW CHOW, R.T. page 6, line 28; page 7, line 7, dated 12/4/07; the trespass is a felony-R.T. page 4, line 26. See also pages 7, 110, 154, and 155, all dated 12/4/07.

LYU did not need an interpreter, R.T.

page 88 lines 24-27; page 89 line 1, dated 12/4/07, yet CHOW was forced by JA to pay half the costs, R.T. page 42 dated 3/26/08. Chow never read or understands CHINESE. JA would NOT EVEN respect her attorney POON by overruling everything in favor of CHOW, sustaining everything to destroy her in its entirety.
SEE R.T. page 161, dated 12-4-07, lines 8-28.

CONCLUSION

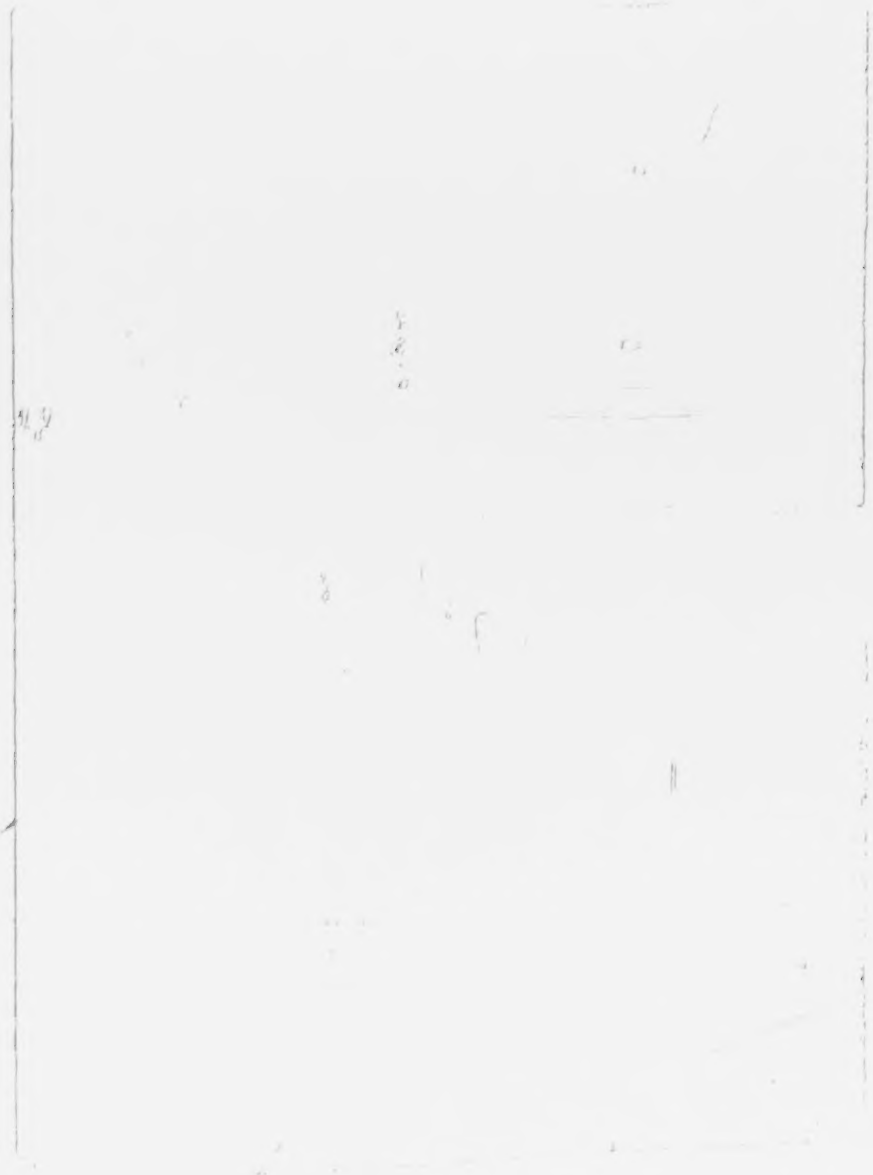
For the foregoing reasons set forth above, this Honorable Court is respectfully urged to finally dismiss the entire trespass actions **with prejudice, to award ALL EXPENSES suffered by CHOW, her fees with interest since 10/28/03; to release forthwith the undertaking she deposited on 8-28-08, because it he who demanded her to deposit. JA and CARLEO destroyed CHOW's LIFE, ERGO, CARLEO should immediately pay interest from 8/2/08.**

CARLEO, POPE, WU and CONVICT's TESTIMONIES AT TRIAL SINCE 12/3/07 and 12/5/07, ARE NOTHING BUT INCOMPETENT BRD (BEYOND REASONALE DOUBT) "EVIDENCE".

Respectfully
submitted,
By "s"

Dated: 9/28/2008. ESTHER CHOW

Appendix # F-16



UPPER PICTURE: Man in the elevator
LOWER PICTURE: Stairs on the right side of elevator.

BEST AVAILABLE COPY

APPELLATE DIVISION OF THE SUPERIOR COURT OF STATE OF CALIFORNIA COUNTY OF LOS ANGELES

FRANK CARLEO,
Plaintiff and Respondent,

FILED, Los Angeles
Superior CT
10/30/2009

ESTHER CHOW,
Defendant and Appellant. By—

Nos. BV 027694 & BV 027695
ALHAMBRA TRIAL COURT No. 02C01282

MEMORANDUM JUDGMENT

This cause having been submitted for decision, judgment is ordered as follow:
The judgment and orders, awarding attorney's fees and costs are affirmed. Respondent to recover costs on appeal.

Proceedings Below

On 7/28/2003, plaintiff and respondent FRANK CARLEO ("respondent") filed a complaint against defendant and appellant Esther Chow ("appellant"), alleging causes of action for trespass to real property and trespass to chattels. The complaint arose out of a 7/28/2002 incident wherein appellant and other individuals entered respondent's law office and removed certain files from within. On 10/21/2003, appellant filed an answer denying and 'admitting various allegations' in the complaint and raising affirmative defenses.

The matter subsequently proceeded to a court trial on 12/4 and 5, 2007, where the trial court found in favor of respondent.

In May or June 2002, respondent terminated his relationship with SHONG-CHING TONG, an officer worker in respondent's law office. On Sunday, 7/28/2002, Bonnie WU and employee of respondent, went to respondent's law office to retrieve her school books that she had left there. The office which was leased to respondent, was closed at that time. When Ms. WU arrived, she observed a man leaving respondent's office with box of legal documents. The door to the office was open, and another man was changing the door lock. Appellant, who was standing in the hallway OUTSIDE respondent's office, entered the open door to notify the people in the office of Ms. WU's presence. Ms. WU observed Mr. TONG and other individuals going through respondent's desk drawer and saw appellant and other individuals remove legal documents from respondent's office. Respondent, who at the time was out of state, did not inform Ms. WU that anyone would be in his office to retrieve legal files or that he had given appellant permission to enter his office. Ms. Wu subsequently reported the incident to the police. As a result of the loss of his clients' files, respondent incurred losses of several thousand dollars and expended at least a thousand hours rectifying the loss of his legal files and reconstructing his clients' case files. Appellant testified that she did not visit respondent's office on 7/22/2002, and denied ever removing files from his office.

After considering the evidence and testimony, the trial court found in favor of respondent and entered judgment on 1/18/08. On 1/7/2008, appellant filed an appeal from the judgment (case BV027695). On 2/25/2008, the trial court ordered appellant to pay $2,217 in costs. On 3/26/2008, the trial awarded respondent $3000 in attorney's. That same day, appellant filed a second appeal from the trial court's February and March orders awarding attorney's fees and costs (case BV 027694).

DISCUSSION

The Appeal from the Judgment

Appellant raises in her brief the following contentions with respect to the appeal from the judgment: there was insufficient evidence to support the trial court's finding that appellant intended to trespass on respondent's property, the trial erred in refusing to exclude respondent's testimony and that of his witnesses; the trial court erred by acting as respondent's "private advocate"; the trial court erred in proceeding with the case in the absence of the indispensable party; and the trial court erred by amending the complaint. As herein discussed, we find NONE of her contents persuasive and affirm the judgment.

First, appellant challenged the sufficiency of the evidence supporting the trial court's determination on that she was liable for trespassing on respondent's property. To be held liable for trespass to real property, the following must be proven: respondent owned, leased, occupied, or controlled the property; appellant intentionally or negligently entered the property; appellant

entered the property without respondent's permission; respondent was damaged by appellant's entry; and appellant's entry was a substantial factor in causing harm to respondent. (CACI No. 2000; 5 Witkin, Summary of Cal. Law (10the Ed 2005 & 2009 supp.) Tort, § 693, and causes therein.)

Specially, appellant argues on appeal that there was insufficient evidence to support the trial court's determination that she intended to enter respondent's office without respondent's permission. We do not find appellant's contention meritorious as explained below.

In reviewing the sufficiency of the evidence, this court "must consider all of the evidence in the light most favorable to the prevailing party, giving it the benefit of every reasonable inference, and resolving conflict in support of the judgment. [Citations.] We must accept as true all evidence and all reasonable inferences from that evidence tending to establish the correctness of the trial court's findings and decision, resolving every conflict in favor of the judgment. It is not our task to weigh conflicts and disputes in the evidence; that is the province of the trial court. Our authority begins and ends with a determination of whether, on the entire record, there is any 'substantial' evidence, contradicted or uncontradicted, which will support the judgment. [Citations.]" Grappo v. Coventry Financial Corp. (1991), 235 C.A. 3d 496, 506-507.

In the instant case, respondent testified and his law office was closed on 7/28/2002, and that appellant did not have permission to enter his office. Ms. WU testified that she 'observed' appellant enter

respondent's law office in order to warn people inside that Ms. WU was present. The trial court expressly found such testimony to be credible and disbelieved appellant's contrary testimony that she was not present in respondent's law office on the day of the incident. Thus, the trial court attributed less weight to appellant's evidence over that of respondent and his witnesses, credibility determination properly within the province of the trial court and supported by the evidence. It is clear that a "trial court's decision is predominantly based upon questions of credibility, weighing conflicting evidence and drawing reasonable inferences from the voluminous evidence presented." Jordan v. City of Santa Barbara (1996), 46 C.A. 4th 1245, 1254. On appeal, the reviewing court "resolve[s] all evidentiary conflict in favor of the prevailing part[y], and indulge[s] all reasonable inferences possible to uphold the trial court's findings. [Citation." ID at pp 1254 1255] A reviewing court must accept a credibility determination by the trial court "unless it is physically impossible or inherently improbable and such inherent improbability plainly appears. [Citation.]" (Beck Development Co. v. So. Pac. Transportation Co (1996), 44 C.A. 4th 1160, 1204.) Such is not the case here. Accordingly, there was substantial evidence for the trial court to find that appellant intentionally entered respondent's law office without respondent's permission.

Contradicting her trial testimony that she did not enter respondent's law office, appellant argues on appeal that she was in respondent's office as an invitee of Mr. TONG. Hence, she argues that she had consent to be there and could not be liable for

trespass. However, appellant fails to specify where in the record the evidence established that she was an invitee. Indeed, Mr. TONG testified that appellant was not anywhere near respondent's office on the day of the incident. The evidence adduced at trial fails to substantiate appellant's claim that she was invitee. Assertions in a brief that are unsupported by the record cannot be considered by a reviewing court. (People v. Foote, [2001], 91 C.A. 4th Supp. 7, 12-13.].

Second appellant contends that the trial court erred in refusing to exclude the testimony of respondent and that of his witnesses. Specifically, appellant argues that because respondent and his witnesses did not ask the police to file a criminal complaint against her, their testimony lacked credibility and should not have been allowed. However, appellant fails to demonstrate that she raised any objection to the testimony of respondent and his witnesses on the above-specified ground. EV.CD. § 353, sub. Div. (a), provides that a verdict will not be set aside or a judgment reversed in the basis of the erroneous admission of evidence unless "[t]here appears of record on objection to or motion to exclude or to strike the evidence that was timely made and so stated as to make clear the specific ground of the objection. ." Accordingly, appellant's failure to show where in the record she made an evidentiary, objection waives appellate review of this issue. (3 Witkin, CAL. Ev. 4th Ed. 2009 supp. Presentation At Trial, § 371, and cases cited therein.) Note: P.J. struck her issues stated on APP. F ete Third, appellant contends that the trial court erred by acting as respondent's "private advocate", which we construe as

a contention that the court was biased against her. Appellant claims that the trial court improperly dismissed Mr. Tong as a defendant and ruled in respondent's favor during the course of the trial. However, appellant failed to preserve her claim of judicial bias by objecting to the court's improprieties. (Moulton Nigel Water Dist. V. Colombo (2003), 111 C.A. 4th 1210, 1218). Even if objections were raised, a negative ruling against a party does not by itself establish a charge of judicial bias. Note: APP. F inclusive, stricken!
(Id at pp 1218-1220).

Fourth, appellant contends that the trial court erred in proceeding with the case in the absence of an indispensable party, namely, Mr. TONG. Specifically, appellant argues that because Mr. TONG was dismissed from the action, the trial court should have dismissed the entire action under the Code of Civil Procedure § 389.. CCP § 389, sub. Division (b), "sets forth the factors the court should consider in determining 'whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed without prejudice, the absent person being thus regarded as indispensable.' (County of Imperial v. Sup. Ct [2007] 152 C.A. 4th 13, 26.) Whether a party is an indispensable party is a matter within the sound direction of the trial court in which the court weighs the practicalities of various factors enumerated in subdivision (b). River Watch v. Olivenhein Municipal Water Distr. (2009) 170 C.A. 4th 1186, 1216. Note: APP. D inclusive.

Appellant has failed to provide this Court with adequate record upon which to evaluate her arguments that Mr. TONG was an indispensable party and that

the trial court abused its discretion in proceeding to trial without him. While the civil Register of action reflect that a motion to dismiss for failure to join an indispensable party filed on 10/16/07, and that appellant filed a notice of joinder of said motion on 10/17/2007, such documents are not included in the appellate record. Although appellant in the designation of record sought to designate a motion to dismiss "for failure to join/dismiss TONG and joinder by CHOW"(capitalization omitted), for clerk's certificate and the receipt for the record on appeal do not list such documents as part of the record appeal. Appellant at note time filed a motion to augment the record with any such motion or a motion to correct the record, nor did she take any steps to include all relevant documents addressing this contention. (Cal. Rules of Ct, former rule 8.761). Instead, she permitted the appeal to proceed without them. While the record does include a minute order for a 11/9/2007 hearing in which the trial court dismissed TONG as a party and denied a motion to dismiss the entire action, we cannot speculate to reasons for the motion to dismiss so as to determine, if an abuse of discretion occurred. Furthermore, appellant has failed to provide an oral record of the 11/9/2007 proceedings to clarify the ambiguities in the record. It is appellant's burden to furnish this court with a record that is adequate to consider the contentions asserted on appeal. (Ballard v. Uribe, 1986, 41 Cal. 3d 564, 574-575.) Appellant has failed to satisfy her burden. Note: P.J. struck Chow's APP. F inclusive.

Appellant's final contention is that the trial court erred when it granted respondent's request to amend the complaint 'in violation of his impartiality as a judge to decide the case.' The sole citation to the record provided by appellant in her opening brief is inaposite to the claim of error. Appellant cites to the trial court's discussion of respondent's damages at the end of trial in which the court determined respondent's loss of personal property to be $2000 instead of $3000 as reflected in his complaint. Appellant provided no legal authority demonstrating that the trial court's statement was improper or "in violation of his impartiality as a judge . .", and we deem her argument waived. (Nelson v. Avondale Homeowners Assn, 2009, 172 C.A. 4th 857, 862.) Appellant's fails to specify any other instance of the trial's court purported error in amending the complaint, an we decline "to comb the record on [appellant's] behalf [citations]. . ." (Trailor Train Co. v. State Bd of Equalization, 1986, 180 C.A. 3d 565, 588. THE APPEAL FROM THE TRIAL COURT'S ORDERS AWARDING ATTORNEY'S FEES AND COSTS. Note: See APP. F inclusive.

Appellant does not address in her brief the trail court's order awarding attorney's fees and costs. Accordingly, any issue on appeal with respect to the award of attorney's fees and costs is forfeited. (GUTHREY v. State of Cal. (1998), 63 C.A. 4t 1108, 116; 9 Witkin, Cal. Proc. 5th Ed 2008) Appeal § 701-771 and cases cited therein. Note: See APP. F inclusive.

The judgment and orders awarding attorney's fees and costs are affirmed. Respondent to recover costs on appeal.

"/s"

We concur.

WEINTRAUB, J

"/s"

P. McCAY, P.J.

"/s"

WASSERMAN, J

ESTHER CHOW
745 E. Valley Blvd #517
San Gabriel, CA 91776
626 241 2105
In Pro per

FORM MC-701

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF LOS ANGELES
Room 607, N. Hill Str
Los Angeles, CA 90012
BRANCH: Los Angeles

PETITIONER: ESTHER CHOW
DEFENDANT

REQUEST AND ORDER TO FILE NEW LITIGATION BY VEXATIOUS LITIGANT

Type of case: Limited Civil
Case No. B 220586

1. I have been determined to be a vexatious litigant and must obtain prior court approval to file any new litigation in which I am *NOT* represented by an attorney. Filing any new litigation means (1) commencing any civil action or proceeding, or (2) filing any petition, application, or motion (except a discovery motion), under the Family or Probate Code.
Answer:
2. I had 3 attorneys, they all took my money only.
Case *MAHDAVI* (2008) 166 defendant to represent herself, without an attorney.
The respondent court accused my attorney of NOT Having documents.

However, they were inside cases BV027694 and BV 027695. P.J. McKay struck Chow's legal brief on 12/18/08, APP. F-2

3. The new filing is NOT being held to harass or to cause a delay because (give reasons): PETIONER WAS ONLY requested her share of justice.

Date: 11/30/2009

ESTHER CHOW "s"

IN THE COURT APPEAL OF THE STATE OF CALIFORNIA SECOND APPELLATE DISTRICT, DIVISION p

Date: December 4, 2009

FILED
Dec. 4, 2009
K. Lewis
Dep. Clerk

ESTHER CHOW
Petitioner,
Vs
APPELLATE DIVISION,
Respondent;
FRANK CARLEO,
Real Party in Interest

B220586

Los Angeles County No.	BV027694
Los Angeles County No.	BV 028102
Los Angeles County No.	BV 027982
Los Angeles County No.	BV027695
Los Angeles County No.	BV 026123

THE COURT:

The request of File New Litigation by vexatious litigant filed on 11/30/09
IS DENIED.

BOREN, Admin.
Presiding Justice

Administrative Presiding Justice

COURT OF APPEAL, SECOND APPELLATE DISTRICT – NO. B220586

S178714

IN THE SUPREME COURT OF CALIFORNIA

EN BANC

FILED 1/28/2010
Frederick K.
Ohlrich, Clerk

ESTHER CHOW, Petitioner,

v.

APPELLATE DIVISION OF THE SUPERIOR COURT OF LOS ANGELES COUNTY,

Respondent;

FRANK CARLEO, Real Party in Interest.

The order filed on January 21, 2010, denying the request for judicial notice and petition for review, is amended to reflect the above title.

"S"

Acting Chief Justice
M. CHIN
(P. J. George 01/21/2010 order)

APPELLATE DIVISION OF THE SUPERIOR
COURT STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

FRANK CARLEO
Plaintiff and Respondent,

vs.

ESTHER CHOW
Defendant and Appellant

Case no. BV027694 & BV027695
On Appeal From the Alhambra Trial
Court No. 02CC01282

REMITTUR

This cause having been submitted for decision, and fully considered, judgment is ordered as follows:

IT IS ORDERED, ADJUDGED AND DECREED by this court that the judgment and orders awarding attorney's fees and cost are affirmed. Responded to recover costs on appeal.

John A. Clarek, Executive
Officer/Clerk of the
Superior Court
by J. Murphy _____
Deputy

Dated 5/6/2010